

The Honorable

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

RICHARD T. CHENG,

Plaintiff,

v.

G.I. SPORTZ INC., a Canadian corporation,  
ULTIMATE PAINTBALL, LLC, a Missouri  
Limited Liability Company, DISCOUNT  
PAINTBALL, INC., an Illinois corporation,  
and DOES 1-10,

Defendants.

Civil Action No.

COMPLAINT FOR INFRINGEMENT  
OF UNITED STATES PATENT

JURY TRIAL REQUESTED

Plaintiff Richard T. Cheng, by and through his attorneys, and for his Complaint  
against Defendants, states and alleges as follows:

**I. PARTIES AND NATURE OF ACTION**

1. This is an action for infringement of a United States patent, in violation of  
35 U.S.C. §§271, 281, and 283-285. Plaintiff seeks monetary damages against  
Defendants, and equitable relief in the form of a permanent injunction barring the  
manufacture, sale, offer for sale or use within United States, and importation into the  
United States, of goods that infringe the patent rights asserted.

1           2.       Plaintiff Richard T. Cheng is an individual residing at 1536 Duke of  
2 Windsor Road, Virginia Beach, VA.

3           3.       Plaintiff Richard T. Cheng is an inventor of, and by assignment is the sole  
4 owner of, all right, title and interest in U. S. Patent No. 6,298,841, entitled "Paintball  
5 Gun and Light Emitting Projectile-Type Ammunition for Use Therewith." A copy of  
6 the '841 patent is attached as Exhibit A.

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8           4.       Upon information and belief, G.I. SPORTZ, INC. ("GI Sportz"), is a  
9 Canadian federal corporation having its principal place of business at 6000 Rue  
10 Kieran, Ville St. Laurent, Quebec H4S 2B5, Canada.

11           5.       Upon information and belief, DISCOUNT PAINTBALL, INC. ("Discount  
12 Paintball"), is an Illinois corporation having its principal place of business at 2250  
13 Elmhurst Road, Elk Grove Village, IL. 60007

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15           6.       Upon information and belief, ULTIMATE PAINTBALL, LLC ("Ultimate  
16 Paintball"), is a Missouri Limited Liability Company having its principal place of  
17 business at 7075 Stormy Lane, Bonne Terre, MO 63628.

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20                               **II.       JURISDICTION AND VENUE**

21           7.       This Court has original subject matter jurisdiction over the causes of  
22 action for patent infringement asserted herein, pursuant to 28 U.S.C. §§1331 and  
23 1338.

24           8.       Plaintiff is informed and believes, and thereon alleges, that Defendant GI  
25 Sportz offers to sell and sells within the United States, including within this judicial  
26 district, phosphorescent or "glow" paintballs that infringe one or more claims of the

1 '841 patent, including without limitation sales through, and offers to sell through, its  
2 online E-commerce portal. Accused products offered on Defendant GI Sportz'  
3 website are priced in U.S. dollars. The website provides that a buyer may arrange  
4 payment and shipping of accused products to locations within the United States.

5 9. Plaintiff is further informed and believes, and thereon alleges, that  
6 Defendant GI Sportz has imported infringing paintballs into the United States, which  
7 products are sold at retail and online by distributors and retailers within United States.  
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9 10. On information and belief, Defendant GI Sportz has purposefully directed  
10 infringing activities toward residents of this district, and has engaged in acts of  
11 infringement within this district, whereby this Court has personal jurisdiction over  
12 Defendant GI Sportz.

13 11. Plaintiff is informed and believes, and thereon alleges, that Defendant  
14 Ultimate Paintball offers to sell and sells within the United States, including within  
15 this judicial district, phosphorescent or "glow" paintballs that infringe one or more  
16 claims of the '841 patent, including without limitation sales and offers to sell through  
17 its online E-commerce portal.  
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19 12. Plaintiff is further informed and believes, and thereon alleges, that  
20 Defendant Ultimate Paintball has imported infringing paintballs into the United  
21 States, which products are offered for sale and sold at retail and online within the  
22 United States, including within this judicial district, and Ultimate Paintball has  
23 purposefully directed infringing activities toward residents of this district, whereby  
24 this Court has personal jurisdiction over Defendant Ultimate Paintball.  
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1        13. Plaintiff is informed and believes, and thereon alleges, that Defendant  
2 Discount Paintball offers to sell and sells within the United States, including within  
3 this judicial district, phosphorescent or "glow" paintballs that infringe one or more  
4 claims of the '841 patent, including without limitation sales and offers to sell through  
5 its online E-commerce portal.

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7        14. Plaintiff is further informed and believes, and thereon alleges, that  
8 Defendant Discount Paintball has imported infringing paintballs into the United  
9 States, which products are offered for sale and sold at retail and online within the  
10 United States, including within this judicial district, and Discount Paintball has  
11 purposefully directed infringing activities toward residents of this district, whereby  
12 this Court has personal jurisdiction over Defendant Discount Paintball.

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14        15. Plaintiff is further informed and believes, and thereon alleges, that  
15 Defendant Does 1-10 have imported infringing paintballs into the United States,  
16 which products are offered for sale and sold at retail and online within United States,  
17 and Does 1-10 have purposefully directed infringing activities toward residents of this  
18 district, whereby this Court has personal jurisdiction over Does 1-10.

19        16. Venue is proper within this judicial district pursuant to 28 U.S.C. §1391(d)  
20 as Defendant G.I. Sportz is an alien entity, and further venue is proper under 28  
21 U.S.C. §1391(c), as all Defendants are corporations subject to personal jurisdiction  
22 within this district, and further venue is proper under 28 U.S.C. §1400(b), as, upon  
23 information and belief, Defendants' acts of patent infringement have taken place  
24 within this district.  
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1           17. Plaintiff is informed and believes, and thereon alleges, that Defendant G.I.  
2 Sportz is fully amenable to service of process in Canada pursuant to the Hague  
3 Service Convention.

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5                           **III. INFRINGING PRODUCTS**

6           18. Attached as Exhibit B is a screenshot of Defendant GI Sportz' webpage  
7 describing the accused "G.I. Craze Clear-Clear-Phosphorescent Green" paintball, and  
8 further describing the accused products as "Glow in the Dark-Must be Charged."

9           19. The accused paintball products meet each and every limitation of one or  
10 more claims of the '841 patent, such that their manufacture, use, offer for sale or sale  
11 within the United States, or importation into the United States, constitutes  
12 infringement of the '841 patent.

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14           20. In August 2014, Plaintiff, through counsel, caused letters to be delivered  
15 to Defendants G.I. Sportz, Ultimate Paintball and Discount Paintball, advising each  
16 Defendant that importation, offer to sell and sale of the accused paintball products in  
17 the United States, absent a license from Plaintiff, constitutes infringement of  
18 Plaintiff's patent rights. None of the Defendants has responded.

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21                           **IV. FIRST CLAIM FOR RELIEF**

22                           **(DIRECT INFRINGEMENT OF '841 PATENT)**

23           21. Plaintiff incorporates the allegations of the foregoing paragraphs 1-20 as if  
24 fully set forth herein.

25           22. The actions of Defendants in offering to sell, selling and/or importing into  
26 the United States at least the above-described Accused Products, constitute

1 infringement of one or more claims of Plaintiff's '841 patent, in violation of  
2 35 U.S.C. §271(a).

3 23. Plaintiff has been damaged as a direct and proximate result of the conduct  
4 of Defendants in an amount to be proven at trial, but in no event less than a  
5 reasonable royalty.

6 24. Further, Defendants' infringing acts are of a continual and ongoing nature,  
7 resulting in harm to Plaintiff for which Plaintiff has no adequate remedy at law. For  
8 that reason, Plaintiff is entitled to equitable relief including injunctive relief pursuant  
9 to 35 U.S.C. §283.

10 25. Plaintiff is informed and believes, and thereon alleges, that Defendants  
11 were and are aware of Plaintiff's patent rights, and that Defendants' conduct  
12 constitutes willful infringement of Plaintiff's '841 patent.  
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16 **V. SECOND CLAIM FOR RELIEF**  
17 **(INDUCED INFRINGEMENT OF '841 PATENT)**

18 26. Plaintiff incorporates the allegations of the foregoing paragraphs 1-25 as if  
19 fully set forth herein.

20 27. Plaintiff is informed and believes, and thereon alleges, that Defendants  
21 enable and encourage third parties, including retail buyers of Accused Products, to  
22 use Accused Products in violation of Plaintiff's exclusive rights.

23 28. Said conduct of Defendants constitutes inducement to infringe the '841  
24 patent, in violation of 35 U.S.C. §271(b).  
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1 C. That the Court assess increased damages by virtue of Defendants' willful  
2 infringement, and award Plaintiff said increased damages together with Plaintiff's  
3 reasonable attorneys fees, pursuant to 35 U.S.C. §285; and

4 D. That Plaintiff be awarded costs, expert witness fees, and such other and  
5 further relief as the Court may deem just and proper.  
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7 **VII. JURY DEMAND**

8 Plaintiff seeks trial by jury as to all issues herein.  
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10 RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of January, 2015.  
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12 LEE & HAYES PLLC

13 By: /s/ Robert J. Carlson  
14 ROBERT CARLSON  
15 WSBA #18455  
16 Lee & Hayes, PLLC  
17 701 Pike Street, Suite 1600  
18 Seattle, WA 98101  
19 Telephone: (206) 315-4001  
20 Fax: (206) 315-4004  
21 Email: carlson@leehayes.com

22 Attorneys for Plaintiff Richard T. Cheng  
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